

ESTTA Tracking number: **ESTTA443539**

Filing date: **11/29/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Selmena Trading Limited		
Entity	Limited Liability Company	Citizenship	Cyprus
Address	Theklas Lysiotti 35 Eagle Star House, 5th Floor Limassol, 3030 CYPRUS		

Attorney information	Lawrence R. Robins Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. 55 Cambridge Parkway Suite 700 Cambridge, MA 02142 UNITED STATES larry.robins@finnegan.com, docketing@finnegan.com, Cambridge-TTAB-Notifications@finnegan.com Phone:617-452-1600
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Applicant Information

Application No	85352968	Publication date	11/08/2011
Opposition Filing Date	11/29/2011	Opposition Period Ends	12/08/2011
Applicants	Osella, Peter #2D 312 N. May Street Chicago, IL 60607 UNITED STATES Hicks, Michelle #2D 312 N. May Street Chicago, IL 60607 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Dress shirts; Hats; Skirts; T-shirts

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2677171	Application Date	11/16/2001
Registration Date	01/21/2003	Foreign Priority Date	NONE
Word Mark	VANILIA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: Clothing, namely, ladies trousers, ladies tee shirts, ladies sweatshirts and ladies knitwear, namely, pullover sweaters, cardigans, skirts and dresses

Attachments	76339360#TMSN.gif (1 page)(bytes) 2011.11.29 - Notice of Opposition.pdf (12 pages)(390288 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Lawrence R. Robins/
Name	Lawrence R. Robins
Date	11/29/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SELMENA TRADING LIMITED

Opposer,

 V_{c}

MICHELLE HICKS and PETER OSELLA,

Applicants.

Opposition No. _____

Applicant Serial No.: 85/352,968
 Filed: June 22, 2011
 Published for Opposition: November 8, 2011
 Mark: LIVE VANILLA. DIE VANILLA.

NOTICE OF OPPOSITION

Opposer, Selmena Trading Limited (“Opposer”) a limited liability company organized under the laws of Cyprus, having a principal place of business at Theklas Lysiotti 35, Eagle Star House, 5th Floor, Limassol, Cyprus, 3030, believes that it is being damaged, and will be damaged, by Michelle Hicks and Peter Osella’s (“Applicants”) registration of the mark LIVE VANILLA. DIE VANILLA. shown in Application Serial No. 85/352,968, and hereby opposes the same. As grounds for opposition, Opposer alleges that, upon actual knowledge with respect to Opposer and its own acts, and upon information and belief as to other matters:

Opposer and its VANILIA Mark

1. Opposer designs, develops and sells clothing under the VANILIA mark, including ladies trousers, tee shirts, sweatshirts, knitwear, sweaters, cardigans, skirts and dresses.

2. Since at least as early as November 2001, Opposer, itself and through its predecessor-in-interest, has owned and continuously used the VANILIA mark in U.S. commerce in connection with the advertising, promotion, sale, and offering of clothing, namely women's clothing.

3. Opposer is the owner of United States Trademark Registration No. 2,677,171 for the mark VANILIA (stylized) for clothing, namely ladies trousers, tee shirts, sweatshirts, knitwear, sweaters, cardigans, skirts and dresses. Opposer applied for registration on November 11, 2001, and the registration issued on January 21, 2003, a copy of the registration certificate is attached as Exhibit A. Opposer is the current owner of Registration No. 2,677,171 for the mark VANILIA, as evidenced by the Assignment recorded with the United States Patent and Trademark Office on September 15, 2008, and the relevant Trademark Applications and Registrations Retrieval (TARR) document, copies of which are attached as Exhibit B.

4. Since well prior to the June 22, 2011 filing date of Applicants' Application Serial No. 85/352,968, Opposer has continuously used the VANILIA mark to identify its products in U.S. commerce.

5. Through use of its VANILIA trademark in the United States, Opposer has established extremely valuable goodwill in its VANILIA mark by virtue of its quality products offered for sale under the VANILIA mark.

Applicants and their LIVE VANILLA. DIE VANILLA. Mark

6. Applicants are individuals with an address at #2d, 312 N. May Street, Chicago, IL 60607.

7. Applicants are the identified owners of Application Serial No. 85/352,968 for the mark LIVE VANILLA. DIE VANILLA., filed on June 22, 2011, covering "dress shirts; hats; skirts; T-shirts" in International Class 25.

8. Like Opposer, Applicants are in the business of designing, developing and selling women's clothing.

Likelihood of Confusion, 15 U.S.C. § 1052(d)

9. Opposer repeats and realleges each and every allegation set forth in Paragraphs 1 through 8 above.

10. Opposer has used its VANILIA mark in commerce continuing since prior to the filing date of the opposed application.

11. Opposer's pleaded registration issued prior to the filing date of the opposed application.

12. Applicants' LIVE VANILLA. DIE VANILLA. mark is confusingly similar in sound, appearance, connotation, and overall commercial impression to Opposer's VANILIA mark and covers goods identical or closely-related to those offered by Opposer under its mark.

13. Applicants' LIVE VANILLA. DIE VANILLA. mark so resembles Opposer's previously used and registered VANILIA mark as to be likely, when used in connection with Applicants' goods covered by Application Serial No. 85/352,968, to cause

confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d).


WHEREFORE, Opposer believes that it is being damaged, and will be damaged, by the registration of the mark shown in Application Serial No. 85/352,968, and requests that the Opposition be sustained, and that registration to Applicant be refused.

A filing fee has been submitted electronically. If the filing fee is found to be insufficient for any reason, please charge such deficiency to our Deposit Account No. 06-0916.

Respectfully Submitted,

Dated: November 29, 2011

By:



Lawrence R. Robins
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GARRETT & DUNNER, L.L.P.
55 Cambridge Parkway
Cambridge, MA 02142
Telephone: (617) 452-1600
Facsimile: (617) 452-1666

Attorneys for Opposer
Selmena Trading Limited

Exhibit A

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,677,171

Registered Jan. 21, 2003

**TRADEMARK
PRINCIPAL REGISTER**

vanilia

VANILIA FASHION GMBH (FED REP GERMA-
NY COMPANY)
IM TAUBENTAL 41
41468 NEUSS, FED REP GERMANY

OWNER OF FED REP GERMANY REG. NO.
30018363, DATED 5-17-2000, EXPIRES 3-31-2010.

FOR: CLOTHING, NAMELY, LADIES TROU-
SERS, LADIES TEE SHIRTS, LADIES SWEAT-
SHIRTS AND LADIES KNITWEAR, NAMELY,
PULLOVER SWEATERS, CARDIGANS, SKIRTS
AND DRESSES, IN CLASS 25 (U.S. CLS. 22 AND 39).

SER. NO. 76-339,360, FILED 11-16-2001.

R. KENNETH WILLIAMS, EXAMINING ATTOR-
NEY

Exhibit B

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-11-29 12:20:29 ET

Serial Number: 76339360 Assignment Information Trademark Document Retrieval

Registration Number: 2677171

Mark

vanilia

(words only): VANILIA

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2008-08-04

Filing Date: 2001-11-16

Transformed into a National Application: No

Registration Date: 2003-01-21

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2008-08-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. SELMENA TRADING LIMITED

Address:

SELMENA TRADING LIMITED
THEKLAS LYSIOTI 35 EAGLE STAR HOUSE, 5TH FLOOR
LIMASSOL 3030
Cyprus
Legal Entity Type: Limited Liability Company
State or Country Where Organized: Cyprus

GOODS AND/OR SERVICES

International Class: 025
Class Status: Active
Clothing, namely, ladies trousers, ladies tee shirts, ladies sweatshirts and ladies knitwear, namely, pullover sweaters, cardigans, skirts and dresses
Basis: 44(e)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Foreign Registration Number: 30018363
Foreign Registration Date: 2000-05-17
Country: Fed Rep Germany
Foreign Expiration Date: 2010-03-31

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-09-17 - Automatic Update Of Assignment Of Ownership
2008-08-04 - Section 8 (6-year) accepted & Section 15 acknowledged
2008-08-04 - Assigned To Paralegal
2008-08-01 - Assigned To Paralegal
2008-07-24 - TEAS Section 8 & 15 Received
2008-06-18 - Case File In TIGRS
2003-01-21 - Registered - Principal Register

2002-10-29 - Published for opposition
2002-10-09 - Notice of publication
2002-05-22 - Approved for Pub - Principal Register (Initial exam)
2002-05-17 - Examiner's amendment mailed
2002-03-15 - Sec. 1(B) Claim Deleted
2002-03-15 - Communication received from applicant
2002-02-04 - Non-final action mailed
2002-01-30 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Lawrence R. Robins

Correspondent

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901 New York Avenue, N.W.
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Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: [76339360](#)

Filing Dt: 11/16/2001

Reg #: [2677171](#)

Reg. Dt: 01/21/2003

Registrant: Vanilla Fashion GmbH

Mark: VANILIA

Assignment: 1

Reel/Frame: [3853/0438](#)

Received: 09/15/2008

Recorded: 09/15/2008

Pages: 4

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [VANILIA FASHION GMBH](#)

Exec Dt: 08/20/2008

Entity Type: GMBH

Citizenship: GERMANY

Entity Type: LIMITED LIABILITY
COMPANY

Citizenship: CYPRUS

Assignee: [SELMENA TRADING LIMITED](#)

THEKLAS LYSIOTI 35

EAGLE STAR HOUSE, 5TH FLOOR

LIMASSOL, CYPRUS 3030

Correspondent: LAWRENCE R. ROBINS
901 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20001Domestic rep: LAWRENCE R. ROBINS
901 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20001

Search Results as of: 11/29/2011 12:20 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.2
Web interface last modified: July 25, 2011 v.2.2[| .HOME](#) | [INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [CONTACT US](#) | [PRIVACY STATEMENT](#)

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing Notice of Opposition was served by first class mail, postage prepaid, on the this 29th day of November 2011, on Applicant at the following address of record listed below:

Peter Osella
312 N. May Street, Apt. 2D
Chicago, IL 60607

A handwritten signature in blue ink, reading "Laura Johnson", is written over a horizontal line.